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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,814	03/21/2001	Takashi Yugami	826.1716	1934
21171	7590	07/01/2004	EXAMINER	
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			GART, MATTHEW S	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.





# Office Action Summary

Application No.

09/812,814

Applicant(s)

YUGAMI ET AL. 

Examiner

Matthew s Gart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,4 and 6-11 is/are pending in the application.
- 4a) Of the above claim(s) 2,3 and 5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4 and 6-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_



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### **DETAILED ACTION**

Claims 1, 4 and 6-11 were amended and claims 2, 3 and 5 were canceled via the Attorney's response filed on 5/24/2004. Claims 1, 4 and 6-11 are pending in the instant application.

### ***Claim Rejections - 35 USC §101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requires of this title.

**Claims 1, 4 and 6-11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

The invention as recited in the claims is merely an abstract idea that is not within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter.

Mere recitation in the preamble (i.e., intended use) or mere implication of employing a machine or article of manufacture to perform some or all of the recited steps does not confer statutory subject matter to an otherwise abstract idea. "A discount sale management, etc." mere nominal use of a component, albeit within the



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technological arts, does not confer statutory subject matter to an otherwise abstract idea if the component does not affect or affect the underlying process.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1, 4 and 6-11 rejected under 35 U.S.C. 102(e) as being anticipated by**

**Kaminsky U.S. Patent Application Publication No. 2001/0047308.**

Referring to claim 1. Kaminsky disclose a discount sale management method of managing a selling price, comprising:

- Counting a sales quantity (Fig. 3, "Qty");
- Setting a discount price as the selling price, the discount price produced by a discount from an original price, while the sales quantity is less than a predetermined quantity (paragraph 0049 and paragraph 0050);
- Setting the original price as the selling price at the time the sales quantity becomes equal to or greater than the predetermined quantity (paragraph 0050);
- Lowering the discount price with a passage of time (paragraph 0050, "Current price 38 will drop a certain percentage over a given period of time.").



- Providing a discount price transition table which indicates a schedule of change of the discount price for a purchaser (paragraph 0050);
- Accepting, from the purchaser, a purchase reservation specifying a desired purchase price (paragraph 0052, "Shoppers thus make anonymous demands which will be accepted or declined individually within twenty-four hours."); and
- Setting a purchase reservation time of the purchase reservation when the selling price reaches the desired purchase price (paragraph 0052).

Referring to claim 4. Kaminsky further discloses a method comprising:

- Setting the discount price to a minimum discount price (paragraph 0044, "The business entity can set either a floor, or minimum price for the product they wish to offer..."); and
- Holding the minimum discount price as the selling price after the selling price reaches the minimum discount price, as long as the sales quantity is less than the predetermined quantity (paragraph 0039).

Referring to claim 6. Kaminsky further discloses a method comprising allocating a product to the purchase reservation if the sales quantity is less than the predetermined quantity when the selling price reaches the desired purchase price (paragraph 0049 and paragraph 0050).

Referring to claim 7. Kaminsky further discloses a method comprising canceling the purchase reservation if the sales quantity is equal to or greater than the predetermined quantity when the selling price reaches the desired purchase price (paragraph 0056).



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Referring to claims 8-11. Claims 8-11 are rejected under the same rationale as set forth above in claims 1-7.

### ***Response to Arguments***

Applicant's arguments filed 5/24/2004 have been fully considered but they are not persuasive.

Provided is a copy of provisional application Serial No. 60/193,739 (to which priority was claimed by Kaminsky et al.). Provisional application Serial No. 60/193739 does provide adequate support for Patent Application Publication US 2001/0047308, thus making Patent Application Publication US 2001/0047309 proper prior art under 35 USC 102(e).

The Examiner notes, provisional application Serial No. 60/193739 discloses a price transition table which indicates a schedule of change of the discount price for purchaser (Provisional application Serial No. 60/193739, page 3).

### ***Conclusion***

Any inquiry concerning this communication should be directed to Matthew Walker et al. whose telephone number is 703-305-5355. This examiner can normally be reached Monday-Friday, 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone



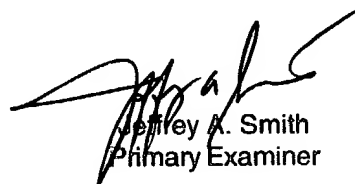
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numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

MSG

June 27, 2004



Jeffrey A. Smith  
Primary Examiner